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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/559,469	04/26/2000	Shinichi Kudo	Q59040	1492

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EXAMINER

NGUYEN, BINH AN DUC

ART UNIT PAPER NUMBER

3713

DATE MAILED: 03/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/559,469

Applicant(s)

KUDO, SHINICHI

Examiner

Binh-An D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/24/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☒ Claim(s) 10 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. The Amendment filed November 24, 2004 has been received. According to the Amendment, claims 1, 4, and 7-9 have been amended. Currently, claims 1-11 are pending in this application. Acknowledgment has been made.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rieder (5,769,718) in view of Stephens et al. (6,155,923).

Rieder teaches a video game device and method comprising an image of a player character, images of non-player characters (antagonist characters), and background images; predetermining a plurality of operational modes which are assigned to player character (fighting mode, moving mode, etc.), and preparing an image corresponding to each operational mode; displaying an image of the player character corresponding to any one of plurality of operational modes and images of non-player characters, simultaneously with any one of the background images (Fig. 6); the image of the player character is an image displaying the player character in a state where it is carrying a weapon; a fighting mode representing a state wherein the player character is able to fight using the weapon; and a moving mode representing a state wherein the character moves while carrying the weapon (Fig. 5). See Figures 4-8 and columns 2:11-

5 and 5-8. Rieder does not explicitly teach the limitations of background images that display scenes adjacent to each other in location (claims 1, 4, and 7-9); restricting the switching of the background images from the start until completion of an operational mode (claims 1, 4, 7, 8, and 9); information relating to background images is determined on the basis of the video RAM capacity of the video device (claims 2 and 5).

Stephens et al., however, teaches a video game system and methods for enhanced processing and display of graphical character elements comprising background images that display scenes adjacent to each other in location (Figure 1); restricting the switching of the background images from the start until completion of an operational mode (5:36-48); information relating to background images is determined on the basis of the video RAM capacity of the video device (5:2-10:43). See also, Figures 1-6 and columns 1-4.

Thus, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Rieder's with a video game system and methods for enhanced processing and display of graphical character elements, as taught by Stephens et al., to come up with a more affordable and faster video game processing device that would avoid a finite and unacceptable graphic generation delay thus attract more game players and increase profit in sales.

4. Claims 10 and 11 are objected to as being dependent upon a rejected base claim, but may be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Applicant's arguments filed November 24, 2004 have been fully considered but they are not persuasive.

Applicant's argument regarding the amended feature of "switching between background images requires a finite and unacceptable delay" and "restricting the switching of the background images... so that a finite and unacceptable delay is avoided" which has been amended to the preamble of claims 1,4, and 7-9 (applicant's remark, page 6, line 8 to page 7, line 21); this feature does not further limit the claims. Moreover, this feature does not present a definite rate, e.g., switching rate value, that would define the "finite and unacceptable delay" to be avoided.

Further, in response to applicant's arguments against the references individually (applicant's remark, page 7, lines 5-21), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 571-272-4440. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BN

JOHN M. HOTALING
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PRIMARY EXAMINER

